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In re Application of:	:	
TAI, Kenny, et al.	:	
U.S. Application No.: 10/560,194	:	DECISION ON RENEWED
PCT No.: PCT/SG2004/000176	:	PETITION UNDER
International Filing Date: 10 June 2004	:	37 CFR 1.47(a)
Priority Date: 11 June 2003	:	
Atty's Docket No.: 003D.0083.U1(US)	:	
For: RECEPTACLE CONNECTOR	:	
ASSEMBLY FOR IC CARD AND IC	:	
CARD CONNECTOR	:	

This decision is issued in response to applicants' "Renewed Petition Under 37 CFR 1.47(a)" filed 25 September 2006. No additional petition fee is required.

BACKGROUND

The procedural background for the present application was set forth in the decision mailed herein on 03 August 2006. That decision dismissed applicants' petition under 37 CFR 1.47(a) for failure to satisfy all the requirements of a grantable petition. Specifically, applicants had failed to adequately demonstrate that the non-signing inventor Scott LU had refused to execute the application or cannot be reached after diligent effort.

On 25 September 2006, applicants filed the "Renewed Petition Under 37 CFR 1.47(a)" considered herein.

DISCUSSION

In the original petition, applicants provided a statement, with supporting documents, confirming that a request for signature, with a copy of the complete application, to the last known address of the inventor via Federal Express, and that no reply was received. The petition did not, however, include any confirmation that the non-signing inventor received the mailing (i.e., a signed receipt), nor did it provide any evidence to confirm that the address used was the current address of the non-signing inventor. The petition also referred to an express statement of refusal from the inventor to an unnamed former co-worker, but no firsthand evidence was provided with respect to this assertion.

The decision mailed 03 August 2006 held that the evidence presented was insufficient to demonstrate that the non-signing inventor had refused to execute the application or could not be located after diligent effort, stating the following:

Applicants must supplement the present submission either with firsthand evidence confirming the inventor's express refusal to execute the application papers, or, in the alternative, additional evidence to confirm that the inventor has constructively refused to sign the application. Any showing of constructive refusal should include evidence that a request for signature, with a copy of the complete application papers, has been provided to the inventor at his current address (for example, a signed delivery receipt, or other evidence that the address being used for the inventor is current).

The renewed petition does not include the materials required by the prior decision, that is, firsthand evidence supporting the assertion of an express refusal to sign from the inventor or evidence to confirm that the address being used for the non-signing inventor is current and that the inventor has received the application and the request for signature, but failed to reply. Rather, applicants have provided evidence that a second letter was mailed to the inventor at the same address as previously used; again, no evidence of receipt or any confirmation of the accuracy of the address used has been provided. Applicants also argue that the Office has applied an "arbitrary" standard, and that the MPEP only requires a single mailing to the last known address of the inventor in order to demonstrate a refusal to sign.

A prerequisite to claiming a refusal to sign is that a copy of the complete application be mailed to the inventor's last known address; this is to insure that any subsequent refusal to sign the papers by the inventor (whether express or implied) is based on a proper understanding of the application at issue. While multiple mailings are not necessarily required to satisfy this prerequisite, this does not mean that the failure to respond such a mailing, absent additional evidence, constitutes a constructive refusal to sign. Whether or not a constructive refusal has taken place is a determination to be made by the Office based on the sum of the firsthand and documentary evidence presented by the petitioner. Here, as noted in the previous decision, the materials are not sufficient to support a conclusion that the inventor has been provided with a copy of the application papers and refused to execute the application. For example, the present record can just as readily be interpreted as showing that the inventor no longer resides at this address, in which case evidence of a diligent effort to locate the inventor's current address is necessary.

Based on the above, applicants have still failed to provide an adequate showing that the non-signing inventor has refused to execute the application or cannot be located after diligent effort. Further evidence, as discussed above and in the previous decision, must be provided before the final element of a grantable petition can be considered satisfied.

CONCLUSION

Applicants' renewed petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Second Renewed Petition Under 37 CFR 1.47(a)" and must include the additional materials required to satisfy item (4) of a grantable petition, as discussed above and in the previous decision. No additional petition fee is required.

Failure to file a proper response will result in abandonment of the application.
Extensions of time are available under 37 CFR 1.136(a)

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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